

**ANDOVER BOARD OF HEALTH**

**Minutes**

**February 9, 2009, 6 P.M.**

**1st Floor Conference Room**

**36 Bartlet Street**

The Board of Health meeting was called to order at 6:00 p.m. Present were, Dr. Donald H. Miller, Vice-Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Candace B. Martin, Chairman, was not in attendance for personal reasons.

**I. Approval of Minutes**

- **January 12, 2009**

*Motion by Ms. Kruse, seconded by Dr. Miller to approve the Minutes of the Meeting of January 12, 2009. Unanimous Approval.*

**II. Appointments & Hearings**

- **6:00 p.m. – Mark Deluca for Ballardvale Catering – Appeal of Mobil Food Service License Suspension and Revocation** – Mr. Deluca was present at the meeting. Mr. Carbone explained that when Ms. Crafts did an inspection of Mr. Deluca's catering truck, she found many problems with sanitation. Mr. Carbone issued a License suspension and revocation ORDER. Mr. Carbone was not very comfortable with Mr. Deluca's current training, so he asked Mr. Deluca to retake the ServeSafe course. Mr. Deluca retook the ServeSafe test on Friday and passed, and has cleaned up his truck to Mr. Carbone's satisfaction. Mr. Carbone is now lifting the ORDER. Mr. Deluca explained to the Board that he didn't grasp the ServeSafe course the first time, so he took a private lesson this time to help him fully understand the importance of food safety. He stated that he now understands and feels that he is starting to do a good job. He does have two trucks and has thoroughly cleaned both making sure sanitizer is in place. He would like to also license his second truck and will work with Mr. Carbone to get that done. The Board made sure Mr. Deluca knew the importance of food safety when working with the public and that cleanliness could be the difference between life and death. Mr. Carbone recommended the Board close the Hearing, taking no action.

*Motion by Ms. Kruse, seconded by Dr. Miller to close the Hearing for the Appeal of Mobil Food Service License Suspension and Revocation for Mark Deluca of Ballardvale Catering, taking no action because Mr. Carbone has lifted the ORDER due to Mr. Deluca's compliance. Unanimous Approval.*

### III. Discussion

- **Preliminary Town Meeting Warrant** – There were three issues the Board was considering voting on. **P-14: Revolving Accounts** – Mr. Carbone explained that we utilize two revolving accounts – one for Health Clinics, and the other for advertising. The Health Clinic account helps to pay one of the Public Health Nurse's salaries, and Mr. Carbone recommended approval. **P-33 National Flood Insurance Program** – This is recommended by the state and includes minor changes to strengthen the bylaw. Mr. Carbone recommended approval. **P-46 Watershed Protection Overlay District (WPOD) Amendments** – Although the Board of Health is listed as the sponsor of this Warrant, the actual work has been done by the Watershed Advisory Committee. The WPOD was established to preserve and protect surface and ground water resources in the Fish Brook/Haggetts Pond Watershed Protection Overlay District for the health, safety, and welfare of its residents as well as to protect the community from the detrimental use and development of land and waters within the WPOD. Mr. Carbone recommended approval.

*Motion by Ms. Kruse, seconded by Dr. Miller to recommend approval of Warrants P-14, P-33, and P-46, pending Ms. Martin's approval.*

### IV. Old Business

- **Smoking Ban – Outdoor Seating Areas** – Mr. Carbone explained that in 2000, the Board of Health regulations prohibited smoking within 25' of a municipal building entrance. Mr. Carbone received language from Newburyport's bylaw which does prohibit smoking in outdoor areas of restaurants. There are also new laws in place in Boston concerning this issue. Ms. Kruse stated that when smoking was banned in restaurants the reasoning was to keep people from exposure to smoke while they were eating. Mr. Carbone stated that the two options available to the Board were regulation or By-law changes. The Board decided that it wanted to be fair and hear public opinion concerning the issue.

Mr. Carbone suggested putting a legal ad in the paper and setting up a Public Hearing inviting restaurant owners and the public to attend to get their thoughts on the matter. Since the outdoor seating regulations start in April, the Board members decided that they would prefer to schedule the Public Hearing for the next Board of Health Meeting on March 9, 2009 at 6:00 p.m. Mr. Carbone will also take written comments for a period of time after the meeting. The Board could then discuss the results at the April Board of Health Meeting and can consider changing the regulations at that time.

- **Court Cases:**
  - **Santangelo – 27 Kirkland Drive** – The Santangellos' Attorney contacted Mr. Carbone to inform him that the dumpster was going to be picked up on Monday, February 16, 2009. Mr. Carbone will be back in Court on February 26, 2009.

- **Wolfe – 2 Carriage Hill Road** – Mr. Carbone informed the Board that he faxed a report over to Elder Services before he left on his vacation. No action was taken until after he returned and found that Elder Services didn't acknowledge receipt of the report. He made it clear to the woman taking in the information, that Mrs. Wolfe was not getting good legal advice, and that her two adult children were living with her while not contributing to any income or finances. Mr. Carbone gave her his notes and copies of the pictures he had taken. Mr. Carbone did get a call from the caseworker who was on his way out to check on Mrs. Wolfe. When the caseworker called Mr. Carbone after he left the Wolfe's residence, he said they were not very responsive to his visit and were quite hostile to him. Elder Services is going back tomorrow afternoon with two police officers; our Senior Liaison Officer and a Sergeant. If they refuse entry, Elder Services may need to get a search warrant or a protective order. If Elder Services does get a protective order they would then be allowed to take responsibility for Mrs. Wolfe. Mr. Carbone will be back in court on February 26, 2009. Mr. Carbone told the case worker that the court could assign a Receiver, but didn't think a Receiver would be in Mrs. Wolfe's best interest. If a Receiver is granted, that would take the financial control away from her children only as far as the septic system goes. The Receiver would be given permission to tap into any of their resources such as equity in the property, or any income coming into the property.

**V. Definitive Subdivision Plans**

- N/A

**VI. Plan Review**

**A. D.W.R.P. Variances/Local Upgrade Approvals –**

- N/A

**B. B.S.I.P. – Ratify**

- N/A

**C. S.S.A.P – Recommend Approval:**

*Ms. Kruse moved to approve, seconded by Dr. Miller. The Board voted unanimously to approve the following SSAP:*

3                      Winterberry Lane                      TM    117                      TL    19A

**D. S.S.U.P.– Recommend Approval:**

*Ms. Kruse moved to approve, seconded by Dr. Miller. The Board voted unanimously to approve the following SSUP:*

3 Winterberry Lane TM 117 TL 19A

**E. B.S.R.P. – Recommend Approval:**

- N/A

**VII. Staff Reports**

**A. Director's Report:**

- **Office Closed for Cleanup, Friday, February 6, 2009 (Not on Agenda)** – Mr. Carbone informed the Board that the office cleanup was a huge success, but there is more to be done. The office will be closed again on Friday, March 6, 2009 to continue the cleanup effort.
- **Budget (Not on Agenda)** – Mr. Carbone informed the Board that the budget was posted on the website today. The amount that is needed to be cut from the Community Development & Planning Department is \$80,000. The budget is a level-funded budget and does not take into consideration decrease in revenues. Several positions may be eliminated throughout the Town if other actions are not taken to make up the deficit. The Town Manager would need to discuss options with the Unions and the Associations such as furloughs or retirements in order to avoid layoffs. The Budget will be presented to the Board of Selectman tonight.
- **Peanut Butter Recall Inspections (Not on Agenda)** – Mr. Carbone informed the Board that he made a list of all food establishments that may carry peanut butter products and he and Health Agents Patricia Crafts and Daniel Tremblay split the list for inspections. In all, thirty establishments were inspected. Most of the establishments were contacted by their distributors and had the products already off their shelves. Ms. Crafts found one place that hadn't taken the products off their shelves and informed them to do so.
- **Cupcake Boutique (Not on Agenda)** – Mr. Carbone informed the Board that the owner of the Cupcake Boutique had decided to move her business from 10 Post Office Avenue to the Andover Spa on 9 Elm Street. She wanted permission to put her cupcakes into the store and Mr. Carbone required that she sell the product prepackaged, or put a hand sink in. When she mentioned using the hand sink at Raspberries, Mr. Carbone initially said he might consider that, but decided that would not work out. The issue the owner of the Cupcake Boutique has run into is that she needs a licensed kitchen to bake her

product in, and thought she could find a place right away. At this point, Mr. Carbone suggested a Church with a good licensed kitchen that might rent out its space to her. She checked a couple of them out, but they were not zoned appropriately, so her next step will be to check into using the Lanam Club kitchen temporarily.

- **Important Dates:**

- February 19 – DEP/MHOA Seminar in Wilmington
- March 3 – MHOA Legislative Breakfast at the State House
- March 9 - BOH Meeting – 6 p.m.
- April 6 through 10 – Public Health Week
- April 13 @ 6 p.m. – Board of Health Meeting

B. **Nurses' Report for January, 2009** – The Nurses' Reports were for informational purposes only.

C. **Inspectors' Reports for January, 2009** – The Inspectors' Reports were for informational purposes only.

**VIII. Board Member Reports**

- N/A

**IX. Adjournment**

*Motion by Ms. Kruse, seconded by Dr. Miller to adjourn at 6:51 p.m. Unanimous approval.*